

## **REMARKS/ARGUMENTS**

Reconsideration and withdrawal of the rejections of the application are respectfully requested in view of the amendments and remarks herewith, which place the application into condition for allowance. The present amendment is being made to facilitate prosecution of the application.

### **I. STATUS OF THE CLAIMS AND FORMAL MATTERS**

Claims 47-65 are pending in this application. Claims 47, 53, 57, 61 and 63 are independent and hereby amended. No new matter has been introduced by this amendment. Support for this amendment is provided throughout the Specification, specifically at pages 13-14. Claims 1-46 have been canceled without prejudice or disclaimer of subject matter. Changes to the claims are not made for the purpose of patentability within the meaning of 35 U.S.C. §101, §102, §103, or §112. Rather, these changes are made simply for clarification and to round out the scope of protection to which the Applicant is entitled.

### **II. REJECTIONS UNDER 35 U.S.C. §103(a)**

Claims 47-65 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over U.S. Patent No. 6,925,495 to Hedge et al. (hereinafter, merely "Hedge") in view of U.S. Patent No. 6,795,863 to Doty, Jr. (hereinafter, merely "Doty").

### **III. RESPONSE TO REJECTIONS**

Claim 47 recites, *inter alia*:

"A method of transferring requested media data over a network comprising:

receiving a request for media data from a client device;

sending a detection code to the client device;

detecting, at the client side, the media player information available on the client device by the detection code;

storing, at the client side, the media player information in one or more cookies;

**verifying said one or more cookies to have valid settings and sending an acknowledgement indicating that said one or more cookies are sufficient to format the requested media data, wherein the cookies describe a measured connection speed and store a preferred connection speed;**

fetching the requested media data; and

transferring the requested media data suitable for the detected media player information to the client computer over the network.”  
(emphasis added)

Applicant repeats the arguments made in the previous response. Furthermore,

Applicant has amended the independent claims to further distinguish the claimed invention from Doty. The Office Action states, “Hedge does not explicitly teach... verifying that they have valid settings and are sufficient to format the requested media data” (See Office Action page 4). Applicant respectfully disagrees with the assertion that Doty provides the disclosure missing from Hedge.

The Office Action cites column 6, line 67 - column 7, line 21 of Doty. Applicant submits that Doty does not describe the claimed features, specifically Doty states, *inter alia*,

“At this stage the user is sent a short streaming media file to determine if they are able to receive multicast signals. At this point, a cookie is set recording user settings up to this point so they will not have to go through this process again. Now the user is sent to a "smart bandwidth detection" page.

At the bandwidth detection page, a fixed size of data is sent down to the user and the time it takes to download is recorded. Based on this data vs. time ratio, the user is either delivered to the 37 Kbps assets (if their download time was above a certain limit) or sent to the next stage of the

bandwidth detection that will do the same data transfer test to determine if the user is able to handle 100 Kbps or 300 Kbps or greater assets. The bandwidth detection is a non-intrusive quick test that is done each time a user visits the website. The reason for not setting a cookie here is to allow the user to see the best possible video based on his connection, which can often change depending on network traffic, time of day connecting, etc. Simultaneously, the encoding computers 28a-28f transmit a digitized, compressed and encoded video signal to the live multicast transaction system 18.” (See Doty column 7, lines 11-21) (emphasis added)

Applicant submits that Hedge and Doty, taken alone or in combination, fail to teach or suggest the features of claim 47. Specifically, Applicant submits that there is no teaching or suggestion of a method of transferring requested media data over a network comprising verifying said one or more cookies to have valid settings and sending an acknowledgement indicating that said one or more cookies are sufficient to format the requested media data, wherein the cookies describe a measured connection speed and store a preferred connection speed, as recited in claim 47.

Indeed, Applicant submits that setting a cookie recording user settings up to this point so they will not have to go through this process again is completely different than verifying said one or more cookies to have valid settings and sending an acknowledgement indicating that said one or more cookies are sufficient to format the requested media data.

Furthermore, Doty describes a system in which a fixed size of data is sent down to the user and the time it takes to download is recorded. Based on this data vs. time ratio, the user is either delivered to the 37 Kbps assets (if their download time was above a certain limit) or sent to the next stage. Claim 47 recites that the cookies describe a measured connection speed and store a preferred connection speed.

Therefore, claim 47 is patentable.

Independent claims 53, 57, 61 and 63 are similar in scope to claim 47 and are patentable for similar reasons.

Therefore, independent claims 47, 53, 57, 61 and 63 are patentable.

#### **IV. DEPENDENT CLAIMS**

The other claims in this application are each dependent from one of the independent claims discussed above and are therefore believed patentable for at least the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, however, the individual reconsideration of the patentability of each on its own merits is respectfully requested.

#### **CONCLUSION**

In the event the Examiner disagrees with any of statements appearing above with respect to the disclosure in the cited reference, or references, it is respectfully requested that the Examiner specifically indicate those portions of the reference, or references, providing the basis for a contrary view.

Please charge any additional fees that may be needed, and credit any overpayment, to our Deposit Account No. 50-0320.

In view of the foregoing amendments and remarks, it is believed that all of the claims in this application are patentable and Applicant respectfully requests early passage to issue of the present application.

Respectfully submitted,

FROMMER LAWRENCE & HAUG LLP  
Attorneys for Applicant

By 

Thomas F. Presson  
Reg. No. 41,442  
Tel. (212) 588-0800